IN RE INQUEST INTO THE DEATH OF SELVAM KOLANDA VELLU, DECEASED

CORONER'S COURT, SEREMBAN
JAGJIT SINGH BANT SINGH SJ
[INQUEST NO: 65A-06-07-2014]
9 JANUARY 2015

CRIMINAL PROCEDURE: *Inquest – Inquiry into death – Coroner's court – Death by hanging – Whether deceased died as a result of family dispute – Whether deceased's wife neglected him and caused his death – Whether deceased had tendency to commit suicide – Whether deceased a mentally unsound person – Whether hospital negligent in failing to admit deceased – Whether deceased's wife had intention to obtain his monies and properties – Whether police reports lodged by deceased's family members an afterthought*

On 13 January 2014, the deceased ('Selvam') was found hanging from a ceiling fan in his house. The facts revealed that Selvam was married to Thanapakiam and she was working as a cashier. *Vide* the KWSP nomination form ('exh P37'), Selvam nominated Thanapakiam as the sole beneficiary and his sister, Citra, had witnessed his signature on the said form. On the fateful day, when Thanapakian came home from work during lunch time, she found Selvam hanging from a ceiling fan in the kitchen. Selvam's family members, namely, Haridas, Citra and Kolanda Vellu accused Thanapakiam of causing Selvam's death where it was alleged, *inter alia*, that (i) she had neglected Selvam by failing to provide him with full care and attention; (ii) she deprived him of medical attention; (iii) she did not allow Selvam to undergo spiritual treatment in India; (iv) she was interested to receive Selvam's KWSP funds and properties in order to enrich herself; (v) she had fabricated exh. P37; and (vi) she had divorced and/or separated from Selvam. That aside, it was also argued that Hospital Tuanku Jaafar Seremban ('HTJS') was responsible for Selvam's death since the doctors who had examined Selvam on 13 July 2013 failed to admit him in the psychiatric ward at HTJS. As a result, several police reports were lodged by Haridas, Citra and Kolanda Vellu in relation to Selvam's death. Hence, this inquest under s. 337 of the Criminal Procedure Code to determine whether any person was criminally concerned in the cause of Selvam's death. Before his death, Selvam was diagnosed as having bipolar mood disorder in manic phase. However, it was testified that Selvam did not pose a risk to himself and during his medical examination which was conducted on 20 June 2013, there was no indication that Selvam would or could commit suicide. Further, when Haridas brought Selvam to HTJS on 13 July

2013, one Dr Ramesh who had examined Selvam found him to be normal and decided not to admit him in the psychiatric ward. Thanapakiam testified that Selvam led a normal life but the only matter which bothered Selvam was the fact that he could not secure a job. On the other hand, the investigation officer opined that Selvam could have hung himself due to family disputes mainly between Selvam and Haridas and to some extent between Selvam, Citra and Kolanda Vellu. This, as submitted, was based on the following reasons, *ie*, (a) Selvam was beaten up by Haridas; (b) Haridas insisted that Selvam had to be admitted in HTJS although it was against Selvam's own will; (c) Haridas insisted that Selvam had to travel to India for spiritual treatment; and (d) negative allegations were made that Selvam was a mentally unsound person. In light of this, Selvam also lodged a police report against Haridas where it was alleged that the latter had tied and beaten him up. Haridas, however, explained that he acted in that manner since Selvam accused their father to be the cause of their mother's death and Selvam was tied up since he behaved aggressively.

Held (death by suicide by way of hanging):

(1) The sole objective of an inquiry was to determine whether any person was criminally concerned in the cause of death. A Coroner could only make a finding based on proved facts produced and not on guesswork or mere conjectures. (paras 8, 10 & 16)

(2) Selvam died as a result of hanging from the ceiling fan in the kitchen. There was not an iota of evidence to show that Selvam was aided or assisted by any other person in the act of hanging since (i) there was no evidence of self defence on the body based on the pattern of ligature marks which was oblique in shape; (ii) Selvam was alone in his house at the material time; (iii) Selvam's immediate neighbours testified that they did not see or hear any person entering or leaving Selvam's house on that fateful day; and (iv) there was no signs of break in or intrusion into Selvam's house. (para 47)

(3) Most of the police reports made respectively by Haridas, Citra and Kolanda Vellu were made after Selvam's death and an afterthought. Further, some of the reasons or complaints given by them were totally irrelevant. Thanapakiam was adapting herself to Selvam's mood swings and she was giving in to him. Their relationship was normal and they had no problems. Further, the allegation that Thanapakiam had divorced Selvam and thereby caused his death could not be accepted. (paras 54, 56, 62 & 63)

(4) Selvam appeared to be normal and there was no reason to admit him in the psychiatric ward against his will. This happened on 13 July 2013, *ie*, months before Selvam came to his death. As such, it could not be seen as to how Thanapakian or HTJS may be held liable or concerned to have caused or carried out the act or omission that resulted in Selvam's death. Dr Ramesh had no reason whatsoever to lie and was an independent witness with no vested interest in this case. He acted professionally when he decided not to admit Selvam. Further, it was impractical and unreasonable to expect Thanapakiam to look after Selvam for 24 hours and seven days a week since (i) Thanapakiam had to work and earn for their everyday expenses; and (ii) Selvam was healthy enough to look after himself. In addition, Selvam appeared normal and went on with his life. Thanapakiam provided the necessary and reasonable care for Selvam and did not neglect him. (paras 66, 67 & 73)

(5) There was no evidence to show that Thanapakiam had created or fabricated the KWSP nomination form. There was nothing suspicious about the change in the nomination since at that point of time, Thanapakiam was the only one living with Selvam and looked after him. (paras 79 & 80)

(6) Citra was an inconsistent and illogical witness. Her evidence was an afterthought and was to deprive Thanapakian of the KWSP monies. Thanapakian did not cause Selvam's death in order to enrich herself with his monies and properties. If she had such intentions, then Thanapakiam would have ensured that Selvam's monies and properties had been transferred into her name. Further, there was nothing wrong in Thanapakiam exercising her legal rights to claim Selvam's monies. (*PP v. Shanmugam & Ors*; refd). (paras 81-83)

(7) Haridas had no right whatsoever to beat or abuse Selvam because of the accusations levelled by Selvam against Kolanda Velu. This incident showed the dominating or over imposing character of Haridas. Likewise, Haridas' insistence and persistence to take Selvam against his will to the temple in India had given rise to a family consternation. It had distressed Selvam and resulted in his depressive mood. However, Haridas did not cause Selvam's death due to the family disputes. These episodes were too remote as they occurred in May, June and July 2013 whereas Selvam died on 13 January 2014. (paras 87, 89, 90 & 91)

(8) The cause of Selvam's death was suicide by hanging and no person or persons were criminally concerned for the cause of his death whether by way of any act or omission. (para 92)

Case(s) referred to:
In Re Anthony Chang Kim Fook, Deceased [2007] 2 CLJ 362 HC ***(refd)***
In Re Inquest Into The Death Of Sujatha Krishnan, Deceased [2009] 5 CLJ 783 Cr. Ct ***(refd)***
In Re Loh Kah Kheng [1990] 1 CLJ 823; [1990] 2 CLJ (Rep) 156 HC ***(refd)***
PP v. Shanmugam & Ors [2002] 1 LNS 160 HC ***(refd)***
R v. Huntbach; Ex Parte Lockley [1944] KB 606 ***(refd)***
Re Derek Selby, Deceased [1971] 1 LNS 122 HC ***(refd)***
Re Rumie Mahlie, Deceased [2007] 10 CLJ 697 HC ***(refd)***
Teoh Meng Kee v. PP [2014] 7 CLJ 1034 CA ***(refd)***

Legislation referred to:
Criminal Procedure Code, ss. 328, 337

For the AG's Chambers - Syamimi Farhana Ab Aziz; DPP
For the deceased's family - Not represented
For the Bar Council - Puspanathan Sellam

Reported by Kumitha Abd Majid

VERDICT

Jagjit Singh Bant Singh SJ:

Introduction

[1] The deceased was found hanging from a ceiling fan in the kitchen of his house on 13 January 2014. A sudden death report on the deceased was referred to me and I decided that an inquest under s. 337 of the Criminal Procedure Code (CPC) be conducted to inquire into the death of the deceased and to determine whether any person is criminally concerned in the cause of his death.

[2] The inquest commenced on 3 December 2014 and ended on 23 December 2014. 18 witnesses evidence was recorded including four medical officers who are as follows:

(a)	Haridas a/l Kolanda Vellu	- SI-1
(b)	Citra a/p Kolanda Vellu	- SI-2
(c)	Kolanda Vellu a/l Ramalingam	- SI-3
(d)	Paramasivam a/l Kolanda Vellu	- SI-4
(e)	G Gunasagaran a/l Givanathan	- SI-5
(f)	Thanapakiam a/p Givanathan	- SI-6
(g)	Santhakumari a/p Krishnan	- SI-7
(h)	Vimala a/p G. Krishnan	- SI-8

(i) Vicknesan a/l Mathialagan - SI-9

(j) Kamalah a/p Kothiah - SI-10

(k) Shahrul Nizam bin Mat Saleh - SI-11

(l) Dr Hazileen binti Zainal - SI-12

(m) Sergeant Zainudin bin Abd Hamid - SI-13

(n) Dr Ramesh a/l Narayasamy - SI-14

(o) Dr Sarfraz bin Manzoor Hussain - SI-15

(p) Dr Muhammad Huzaifah bin Ab Rahim - SI-16

(q) ASP Abdul Ghoffor bin Hj Yunus - SI-17

(r) Sergeant Osman bin Hairon - SI-18

[3] "Inquiries of death" or commonly referred to as "inquest" are governed by Part VIII Chapter XXXII of the CPC. Section 337 of the CPC reads as follows:

> 337. A magistrate holding an inquiry shall inquire when, where, how and after what manner the deceased came by his death and also whether any person is criminally concerned in the cause of the death.

[4] The statutory meaning of "cause of death" is provided in s. 328 of the CPC as follows:

> 328. In this Chapter the words "cause of death" include not only the apparent cause of death as ascertainable by inspection or post-mortem examination of the body of the deceased, but also all matters necessary to enable an opinion to be formed as to the manner in which the deceased came by his death and as to whether his death resulted in any way from, or was accelerated by, any unlawful act or omission on the part of any other person.

[5] In *In Re Loh Kah Kheng* [1990] 1 CLJ 823; [1990] 2 CLJ (Rep) 156; Mohamed Dzaiddin J (as he then was) said:

> It must be remembered that the function of a Magistrate holding an inquiry under Chapter XXXII of the Criminal Procedure Code is to inquire, when, where, how and after what manner the deceased came by his death and also whether any person is criminally concerned in the cause of such death (s. 337). The "cause of death" is defined under s. 328 to include not only the apparent cause of death as ascertainable by inspection or post-mortem examination of the body of the deceased, but also all matters necessary to enable an opinion to be formed as to the manner in which the deceased came by his death and as to whether his death resulted in any way from, or was accelerated by any unlawful act or omission on the part of any other person. Hence, the Magistrate holds an inquiry by examining witnesses on oath and "while usually

following the ordinary rules of evidence he may admit any evidence which he thinks fit, especially hearsay evidence. His duty is to ascertain the cause of death and he is not bound to follow the usual procedure of law Courts" (*Mallal's Criminal Procedure*, 4th Edn., p. 485).

[6] The terms of reference within which a coroner holding an inquest has been explained by Sulong Matjeraie J (as he then was) in the case of *In Re Anthony Chang Kim Fook, Deceased* [2007] 2 CLJ 362 at pp. 365-366 as follows:

> Section 337 of the CPC serves as the terms of reference within which the Coroner conducts the inquest into the death of the deceased. As such the Coroner cannot act outside the perimeter of the said terms of reference.
>
> It must be borne in mind that in an inquest, there are no parties, there is no indictment, there is no prosecution, there is no defence and there is no trial. It is simply an attempt to establish facts. It is an inquisitorial process, a process of investigation quite unlike a trial where the prosecutor accuses and the accused defends, the judge holding the balance or the ring, whichever metaphor one chooses to use, see *R v. South London Coroner; ex parte Thompson* [1982] 126 SJ 625 DC.

[7] The objectives of an inquest according to Mah Weng Kwai JCA in *Teoh Meng Kee v. PP* [2014] 7 CLJ 1034 at p. 1078 are as follows:

- to identify the dead body ie, who the deceased was;
- to ascertain the date and time of death;
- to determine the place where the death had occurred;
- to find out how the death was caused;
- to determine after what manner the deceased came by his/her death;
- to identify the person(s) who caused or carried out the act or omission that resulted in the death, if any; and
- to inquire whether any person is criminally concerned in the cause of such death.

[8] Mah Weng Kwai JCA further explained the role and functions of an inquest at p. 1081 as follows:

> An inquiry of death is therefore a fact-finding process by the learned Magistrate to see if the provisions of *inter alia*, ss. 328 and 337 of the CPC have been complied with. The sole objective of an inquiry is to determine whether any person is criminally concerned in the cause of death.
>
> An inquiry of death is not like a criminal trial. There is no complainant, no prosecutor and there is no accused person on trial. It is only an inquiry by a Magistrate as to the cause of death and the Deputy Public

> Prosecutor is there not to prosecute anyone but only to assist the court with the examination of witnesses for the purpose of receiving the evidence. Hence the officer "conducting" the inquiry is known as an assisting officer and not as a prosecuting officer. Counsel present is there not to defend anyone but only to look after the interest of those who have appointed him. The procedure and rules of evidence which are suitable for the accusatorial process are unsuitable for an inquiry of death which essentially is an inquisitorial process. At the close of an inquiry there is no finding of guilt, conviction or punishment of anyone. The threshold for the standard of proof in an inquiry of death must thus be lower than that for a criminal trial.

[9] Whether a magistrate who conducts such an inquest is bound by the normal rules of evidence was discussed by Suriyadi J (as he then was) in *PP v. Shanmugam & Ors* [2002] 1 LNS 160; [2002] 6 MLJ Supp 562 as follows:

> It had always been accepted that a coroner's inquest was a court of law, though not a court of justice, as it was essentially set up to investigate and ascertain the cause of death. Apart from being shackled by a limited mandate, a coroner was also not bound to follow the usual procedure of law courts ... the position of a magistrate now is no different to the archaic coroner when holding an inquiry of death, and thus similarly not bound by the usual procedure of courts of law. In *Re Loh Kah Kheng (deceased) (supra)* Mohamed Dzaiddin J (as His Lordship then was) when reviewing an inquiry had in crystal clear terms remarked:
>
> > I am, therefore of the opinion that so long as the learned magistrate was satisfied that there was evidence, in whatever form or manner elicited and whether admissible or not, which could assist her in establishing the cause of death of the deceased, she was perfectly entitled to know and take cognisance of it (emphasis mine).
>
> Under held of the above case, is also authored:
>
> > The function of a magistrate in holding an inquiry of death is to inquire, *inter alia*, whether any person is criminally concerned in the cause of death. The inquiry is to be held by examining witnesses on oath and the **magistrate may admit any evidence which he thinks fit, especially hearsay evidence**. His duty is to ascertain the cause of death and he is **not bound to follow usual procedure**. (emphasis added)
>
> In spite of that clear enunciation, in that a magistrate is not bound by the usual procedure, the eventual verdict is a different story. A magistrate who conducts an inquiry must confine himself to the evidence made available to him, and at the end of the day decide on that evidence alone (*Richard Evans & Co. Ltd v. Astley* [1911] A.C 674). Guesswork is certainly out. If any verdict is based on probability and not on the established facts that verdict must certainly be quashed and an open verdict returned. In *R v. Huntbash, ex parte Lockley* [1944] KB 606 Viscount Caldecote C.J had remarked:

A Objection is taken to the finding of the coroner on the ground that there was no evidence to support it, and that is the only point in this case ...

It is **not probability**, however **which determines verdicts**, but proved facts, and, **if facts** which justify a specific verdict are **not proved at an inquest**, there is no alternative but **to return an open verdict** ...

B

As a **coroner is bound by evidence** and can find only facts which are proved in evidence and are **not the result of guesswork**, I think that here the coroner was betrayed into a mistake in the verdict which he arrived (emphasis mine).

C

[10] A coroner is therefore bound by the evidence before him or her and can only find facts which are proved in evidence and are not as a result of guesswork (see *PP v. Shanmugam & Ors*). A coroner can therefore only make a finding based on proved facts produced and not on guesswork or mere conjectures.

D

[11] Reference must also be made to the Practice Direction No. 1 of 2007: Guidelines on Inquest which has been superseded by Practice Direction No. 2 of 2014 – Arahan Amalan Bil. 2 Tahun 2014: Pengendalian Siasatan Kematian (Death Inquiry) Selaras Dengan Penubuhan Mahkamah Khas Koroner) which has crystallised the principles and procedures in an inquest. The relevant provisions are as follows:

E

1. What is an Inquest?

(a) It is not a trial.

F (b) There are no parties to prosecute and to defend.

(c) It is only an inquiry by a Magistrate as to the cause of death and the Prosecuting Officer is there not to prosecute anyone but only to assist the court with the examination of witnesses for the purpose of giving evidence ...

G (f) A Magistrate Coroner shall not express any opinion on any matter until the conclusion of the inquest.

(g) There is no conviction or punishment at the end of it.

2. Matters to be ascertained at Inquest

H The proceeding and evidence at an inquest shall be directed solely at ascertaining the following matters, namely:

(a) who the deceased was.

(b) How, when and where the deceased came by his death.

I (c) ...

(d) The person(s) who carried out the act(s) or omission(s) causing the death, where such evidence is available without however making any finding on the criminal liability of such person(s) ...

14. Verdict

No verdict shall be framed in such a way to appear to determine any question of:

(a) Criminal liability on the part of a named person or

(b) Civil liability.

At the conclusion of the inquest, the Magistrate must deliver a verdict on any one of the following:

(a) An open verdict.

(b) A verdict of misadventure.

(c) Death by person or persons unknown ...

[12] Mah Weng Kwai JCA in *Teoh Meng Kee v. PP* explained the three verdicts as follows:

While a verdict of misadventure or suicide is conclusive by definition, a verdict of death caused by a person or persons unknown is in fact a recommendation to the police authority to reopen its investigations and to the Public Prosecutor to determine at the end of the further police investigations whether anyone is to be charged with an offence of homicide.

In the event of an open verdict being returned by the Magistrate, what this means is that the Magistrate was unable to find out how the death was caused or to determine after what manner the deceased came by his/her death.

Standard Of Proof In An Inquiry Of Death

[13] At the outset it must be pointed out that there is no provision in the CPC on the standard of proof to be applied in an inquiry of death.

[14] In *Teoh Meng Kee v. PP (supra)*, all the three Court of Appeal Judges were of the opinion that both the learned Magistrate and the learned High Court Judge had erred in law when they adopted the beyond reasonable doubt test as the standard of proof to be applied in an inquiry of death. Mah Weng Kwai JCA said:

... With respect, I am of the view that this is an error of law as the correct test to be applied is the civil standard of balance of probabilities. I say this for the following reasons:

(a) As stated earlier, an inquiry of death is not a criminal trial or proceeding. There is no accused person on trial and there is no one to be convicted and sentenced by the court upon a finding that the prosecution has proved its case beyond reasonable doubt;

A (b) The rules on admissibility of evidence and procedure in an inquiry of death are not as strict as in a criminal trial. The Magistrate is on a mere fact-finding mission and is allowed to consider even hearsay evidence. In the case of *Re Loh Kah Kheng* [1990] 1 CLJ 823; [1990] 2 CLJ (Rep) 156; [1990] 2 MLJ 126 it was held that a coroner is not bound by the normal procedure of courts and rules B of evidence;

(c) Where the rules relating to evidence and procedure are lax, it will be inconsistent to require a Magistrate to return a verdict at the close of an inquiry on a beyond reasonable doubt standard;

C (d) It will be incorrect to require the family of Teoh Beng Hock to have to prove a case beyond reasonable doubt before the learned Magistrate can return a verdict of homicide as the means to do so are severely limited. The family of Teoh Beng Hock, being members of the public, simply do not have the powers of investigation as possessed by the police. And where the threshold D for proof in an inquiry of death is lower, it will not be correct nor necessary to expect members of the public to produce evidence on a beyond reasonable doubt standard and yet expect a verdict to be proved beyond reasonable doubt;

(e) A Magistrate conducting an inquiry of death is merely to ascertain whether anyone is criminally concerned in the cause of death. He E has no power to hold or find anyone criminally liable in the cause of death on a beyond reasonable doubt standard;

(f) In the event a person or persons is/are arrested for being criminally liable in the cause of death it is then for the prosecution to charge the person/s for an offence of homicide and where it F will be incumbent upon the prosecution to prove a case beyond reasonable doubt before a conviction can be secured;

(g) For the police to effect an arrest of a suspect, all that the police have to show at that stage of investigations is that there is reasonable ground of suspicion to support the arrest. The police G most certainly do not have to have reasonable grounds on a beyond reasonable doubt standard, before effecting the arrest. Now, if the police can effect an arrest based on reasonable suspicion (see *Shaaban & Ors v. Chong Fook Kam & Anor* [1969] 1 LNS 170; [1969] 2 MLJ 219) why then should the bar or threshold be raised in an inquiry of death to a standard beyond reasonable H doubt before the learned Magistrate can return a verdict of homicide? I see no basis for this approach as after all, in fact and in reality, the recording of evidence in an inquiry by the learned Magistrate can be likened to an extension of investigations by the police. In *Shaaban*'s case it was held that the police are entitled to make an arrest if a reasonable suspicion existed that the suspect I was concerned with the offence. It is unnecessary for the police to show that there was *prima facie* proof of such offence before an arrest.

[15] Mah Weng Kwai JCA further reiterated the following principles in relation to evidence applicable in an inquiry of death:

(a) the evidence adduced must be credible so as to become the basis for the coroner's finding (see *In Re Inquest Into The Death Of Sujatha Krishnan Deceased* [2009] 5 CLJ 783);

(b) the verdict must not be based on guess work but on particulars which have been proved in evidence (see *R v. Huntbach; ex parte Lockley* [1944] KB 606, *Re Derek Selby, Deceased* [1971] 1 LNS 122; [1971] 2 MLJ 277);

(c) a Magistrate who conducts an inquiry must confine himself to the evidence made available to him and at the end of the day must decide on that evidence alone (see *PP v. Shanmugam & Ors* [2002] 1 LNS 160; [2002] 6 MLJ Supp 562);

(d) a Magistrate can only make a definite finding based on proved facts produced and not on mere conjectures (see *Re Rumie Mahlie, Deceased* [2007] 10 CLJ 697).

[16] For this inquest I am therefore guided by the standard of proof applicable in an inquiry of death as stated in *Teoh Meng Kee v. PP (supra)* that is on a balance of probabilities.

The Facts

[17] Selvam a/l Kolanda Vellu, (Selvam) was born on 26 August 1977 and was 36 years old at the time of his death. His father (SI-3) works as a security guard and his mother had committed suicide by placing herself in the path of an oncoming train. Selvam is the second in his family. His eldest brother is Paramasivam a/l Kolanda Vellu (SI-4). Younger to him is his sister, Citra a/p Kolanda Vellu (SI-2) and the youngest is Haridas a/l Kolanda Vellu (SI-1).

[18] Selvam married Thanapakiam a/p Givanathan (SI-6) also known as Usha (Thanapakiam) on 15 May 2010. After their marriage they lived a happy normal life in Selvam's house at No. 203, Jalan BSS 1/3 G, Bandar Seremban Selatan. They did not bear any child.

[19] Selvam worked as a technician in a factory and Thanapakiam worked as a shift worker in a factory until she was told to stop work by Selvam because of different shift duties.

[20] On 8 May 2011 Selvam and Thanapakiam left for Melbourne, Australia where they worked in a farm. Selvam plucked the fruits whereas Thanapakiam packed the fruits.

[21] About one and a half years later Selvam fall sick and was admitted at Robinvale Hospital in Melbourne, Australia. Selvam was discharged from the hospital three days later due to financial constraints (refer exh. P38). Selvam was subsequently brought back to Seremban with the assistance of Haridas.

[22] Upon returning to Seremban, Selvam was admitted at the Hospital Tuanku Jaafar Seremban (HTJS) for five days. Selvam was subsequently discharged from HTJS at own risk (AOR) basis which was signed by Citra (refer exh. P44).

[23] Upon discharge from HTJS Selvam lived with Citra at her house whereas Thanapakiam went back to her parents' house. Two weeks later he moved to his own house. Selvam subsequently brought Thanapakiam back to his own house to live with him.

[24] Evidence before me also disclosed that Selvam was brought to temples (kuil) and to a bomoh to seek spiritual treatment.

[25] On the 20 June 2013 Selvam was attended to by Dr Sarfraz bin Manzoor Hussain (SI-15), at the Psychiatric Unit, HTJS and found Selvam to be suffering from bipolar mood disorder (refer exh. P21).

[26] On the 13 July 2013 Dr Ramesh a/l Narayasamy (SI-14), a medical officer at the Psychiatric Unit, HTJS examined Selvam and found him to be normal and showed no signs of mental illness (refer exhs. P22 and 23).

[27] Selvam had lodged a police report on 31 May 2013 relating to an incident which happened on the 14 May 2013 after he was brought back from Australia (refer exh. P33). Selvam in exh. P33 reported *inter alia* that:

(a) after he was brought to his father-in-law's house he was beaten up and his hands were tied up by Haridas; and

(b) he had some arguments with Haridas over his car.

[28] Selvam had also made a police report on 11 June 2013 relating to his dissatisfaction with Haridas for stealing and selling his motorcar without his consent and tying him up and beating him until he had to bend down and ask for forgiveness (refer exh. P34).

[29] According to Selvam's neighbours, SI-7 and SI-8, Selvam and Thanapakiam lived in their house and very much kept to themselves. They did not socialised with their neighbours.

[30] Thanapakiam subsequently found a job as a cashier at a nearby Mathi Alagen Family Store. Sometimes Selvam send Thanapakiam to her work place and pick her up in his motorcar or motorcycle. At other times Thanapakiam would go on her own on their motorcycle. Selvam stayed at home alone. He too tried to look for a job, but failed to get any because of his mental health stigma.

[31] Thanapakiam's working hours were from 8am to 5pm from Mondays to Saturdays and 8am to 11pm on Sundays. Her lunch break was from 2pm to 3pm.

[32] On or around 8 December 2013 when Thanapakiam came home after work, she found Selvam missing from her house. After a search Selvam was found by Thanapakiam's brother, G Gunasagaran a/l Givanathan (SI-5) and brought home.

[33] Selvam had named Thanapakiam as the sole nominee in the KWSP nomination form (refer exh. P37). According to exh. P37, Citra had witnessed both Selvam's signature and his thumbprint. Exhibit P37 was acknowledged received by KWSP on 9 December 2013.

[34] On 13 January 2014 Thanapakiam had left for work as usual in the morning. Her punch card shows she clocked in for work at 7.57am. She clocked out at 2.01pm for lunch and was replaced by her colleague, Kamalah a/p Kothiah (SI-10).

[35] Upon returning home, Thanapakiam found the gate and front door closed but not locked. She went into her house and to her horror she found Selvam hanging from a ceiling fan in the kitchen (refer exhs. P19(5)-(12)). Thanapakiam immediately informed Citra and her family members. The police were also informed. The police arrived and cordoned off the area and commenced investigation.

[36] At about 3pm Sergeant Zainuddin bin Abd Hamid (SI-13) arrived at the scene together with a photographer, Corporal Qayyum. After investigations were completed Selvam's body was taken to HTJS for a post-mortem. The post-mortem was conducted by Dr Muhammad Huzaifah bin Ab Rahim (SI-16) the next day at 9.45am. The post-mortem report prepared by Dr Huzaifah stated Selvam's cause of death as "by hanging". After the post-mortem Selvam's body was released for the final rites.

[37] After the 16th day prayers for the deceased Citra confronted Thanapakiam and accused her for causing Selvam's death of by neglecting him, not providing full-time care and attention and depriving him of medical attention and disallowing Haridas, Citra and Kolanda Vellu from providing him the necessary treatment and care including medical and spiritual treatment.

[38] Thanapakiam did not go back to work after Selvam's death and have since gone back to live with her parents. On 3 February 2014 she applied to withdraw Selvam's KWSP monies but KWSP's office has not until this day released the monies to Thanapakiam because of objections from Haridas.

[39] A flurry of police reports have been made by Haridas relating to Selvam's death basically accusing Thanapakiam of causing Selvam's death and that Thanapakiam be punished and be deprived of Selvam's monies and properties. Accusations have also been levelled against the medical officers of HTJS for causing Selvam's death and the police officers for their inefficient investigations and alleging them to be corrupt. More than 17 police reports have been made by Haridas (refer exhs. P1 to P16 and P18).

[40] On 21 July 14 Haridas, confronted the Psychiatric Unit of HTJS in particular Dr Ramesh (SI-14) and Dr Sarfraz (SI-15) resulting in Dr Ramesh's original medical report (exh. P22) being forced to be amended to include the medical examination conducted by Dr Sarfraz which Dr Ramesh was not privy to earlier (refer exh. P23).

Who The Deceased Was?

[41] The deceased has been positively identified as Selvam a/l Kolanda Vellu (Identity Card No: 770826-05-5501) by Thanapakiam, Haridas, Citra and SI-5 and (refer exhs. P19(5)-(12) and 20(a)-(c)). SI-5 had made a police report on the death of Selvam (refer exh. P31).

The Date And Time Of Death

[42] Thanapakiam left home for work at about 8am on 13 July 2014. Selvam was alone at home when Thanapakiam left for work. She came home at 2.10pm for her lunch break and found Selvam hanging from the ceiling fan in the kitchen of their house whereupon she informed Citra and her family members.

[43] Dr Muhammad Huzaifah (Dr Huzaifah) examined Selvam's body the next day that is on the 14 January 2014 by which time *rigor mortis* had set in. Having conducted the post-mortem and looking at exhs. P19(5)-(12) Dr Huzaifah estimated Selvam's time of death to be between 9.40am to 2pm on 13 January 2014.

[44] Based on Thanapakiam and Dr Huzaifah's evidence I am of the opinion that Selvam came to his death on the 13 July 2014 between 9.40am to 2pm.

The Place Where The Death Had Occurred

[45] It is not disputed that Selvam's body was found hanging from a ceiling fan in the kitchen of his house at No. 203, Jalan BSS 1/3G, Bandar Seremban Selatan, Sungai Gadut, Seremban, Negeri Sembilan. Thanapakiam's testimony that Selvam was found hanging from the ceiling fan in the kitchen of their house is corroborated by Citra, SI-5 and SI-13 (also refer exhs. P19(5)-(12)). He was dead by then. After investigations at the place of death SI-13 took Selvam's body to HTJS for a post-mortem.

How And After What Manner The Deceased Came By His Death?

[46] There is overwhelming evidence and it is not disputed that Selvam died as a result of hanging. Selvam was found hanging from the ceiling fan in the kitchen of his house by Thanapakiam. He was subsequently seen by Citra, SI-5 and SI-13. Exhibits P19(5)-(12) show Selvam hanging from the ceiling fan in the kitchen of his house. SI-5 subsequently made a police report to that effect (refer exh. P31).

[47] There is not an iota of evidence to show that Selvam was aided or assisted by any other person in the act of hanging. The following facts proves that Selvam had hanged himself:

(a) the post-mortem report states that cause of death as "hanging" (refer exh. P41). Dr Huzaifah explained that the death could have occurred when pressure was applied on the neck where it could have caused the blockage of air passages or when pressure was applied on the "vagus" nerve where it could have caused the stoppage of breathing or when pressure was applied on the blood vessel where it could have caused the blockage of blood to the head;

(b) Dr Huzaifah further explained that based on the pattern of ligature marks which is oblique in shape, finding no evidence of self-defence on the body and the knot that was found on Selvam could be tied by Selvam himself, he is of the opinion that Selvam had hanged himself without the involvement of any other person;

(c) Dr Huzaifah estimated that Selvam died between 9.40am to 2pm on 13 January 2014;

(d) During the material time Selvam was alone in his house as Thanapakiam was at her work place at Mathi Alagan Family Store. The punch card shows that she clocked in at 7.57am, and clocked out for lunch break at 2.02 pm (refer exh. P 36);

(e) Thanapakiam's manager Vicknesan (SI-9) testified that on 13 July 2014, Thanapakiam was at her work place and had at no time left her work place;

(f) Thanapakiam's colleague, Kamalah (SI-10) confirmed that she relieved Thanapakiam at 2pm for Thanapakiam's lunch break;

(g) the immediate neighbour's SI-7 and SI-8 denied going into Selvam's house that morning of 13 January 2014. SI-8 testified that she did not see or hear any person entering or leaving Selvam's house that morning;

(h) there were no signs of break in or intrusion into Selvam's house; and

(i) the presence of suicidal tendencies on the part of Selvam.

A **Suicidal Tendencies**

[48] Evidence from Thanapakiam revealed that on or around the 8 December 2013 when Thanapakiam came home after work, she found Selvam missing from her house. She found his wallet and some money on a cupboard. After a search Selvam was found by Thanapakiam's brother,
B G Gunasagaran a/l Givanathan (SI-5) under a bridge in Seremban Selatan and brought back home. Upon questioning by Thanapakiam, Selvam cried that:

(a) no employer is willing to employ him;

C (b) Haridas had cheated him of RM14,000; and

(c) a friend by the name of Chandran had cheated him of RM6,200 on the pretext of buying a motor lorry.

[49] Dr Sarfraz informed the court that he attended to Selvam on the
D 20 June 2013 and diagnosed him to be having "bipolar mood disorder in manic phase" (BMD), a form of psychiatric illness. Dr Ramesh who examined Selvam on 13 July 2013 explained that BMD has two extreme moods namely the manic phase and the depressed phase. The manic phase is the happy mood and the patient has potential to become aggressive and
E spend thrift. In depressive mood the patient is in a sad mood and appear very depressed and will have tendencies to commit suicide. He further added that any patient with psychiatric illness might have a tendency to commit suicide because some of them may hear or see certain images to provoke them to commit suicide. If they are depressed they will feel so sad and unable to control their sadness and this could lead them to commit
F suicide. He elaborated that such sadness could be due to family issues, financial issues, social issues or could be psychosis itself that is hearing and seeing images.

[50] Having heard the evidence of Dr Sarfraz and Dr Ramesh I am satisfied that Selvam was suffering from a form of psychiatric illness named
G BMD of the manic phase and as such had tendencies to commit suicide. I must add that Dr Sarfraz upon examining Selvam on the 20 June 2013 did not find any evidence that Selvam poses a risk to himself as he was not depressed then, there were no suicidal wishes or tendencies and there were no signs of violence or aggressions to anyone. Dr Safraz added that on the
H 20 June 2013 there was no indication Selvam would or could commit suicide. On the contrary Selvam felt elated and a special person who could help Indians and bring peace to the world.

I

Whether Any Person Or Persons Caused Or Carried Out The Act Or Omission That Resulted In The Death?

[51] In order to determine if any person or persons caused Selvam's death it is necessary for me to consider Haridas, Citra and Kolanda Vellu's accusations and the investigation officer's findings. Haridas, Citra and Kolanda Vellu are accusing Thanapakiam for causing the death of Selvam for the following reasons:

(a) failed to take full care and attention of Selvam;

(b) did not provide Selvam with the necessary medical and spiritual care and treatment;

(c) obstructed Haridas, Citra and Kolanda Vellu from providing medical and spiritual care and treatment to Selvam;

(d) obstructed Selvam from being taken to India for treatment; and

(e) going after Selvam's monies and properties.

[52] They have also accused HTJS for being responsible for Selvam's death for failing to admit Selvam in the Psychiatric Ward at the HTJS on the 13 July 2013.

[53] Haridas, Citra and Kolanda Vellu have made more than 20 police reports as can be seen as follows:

	Police reports by Haridas		
	Exhibit	Date	Report
1.	P16	13 July 2013	Haridas reported that he brought Selvam to HTJS for mental treatment.
2.	P10	7 February 2014	Haridas reported that he was deprived by Thanapakiam to get Selvam admitted and treated at HTJS as she lied to the doctor that Selvam did not have any psychiatric problem.
3.	P1	13 February 2014	Haridas seeking police assistance in obtaining the deceased's medical report.
4.	P2	14 March 2014	Haridas seeking police assistance in obtaining the deceased's medical report.
5.	P3	11 April 2014	Haridas cites nine reasons accusing Thanapakiam for causing Selvam's death.

6.	P11	12 April 2014	Haridas reported that the police investigation into the death of Selvam is a criminal matter and wanted Thanapakiam to be stopped from claiming the deceased's monies and properties.
7.	P12	9 May 2014	Haridas blamed the police for the dismissal of his civil action against Thanapakiam as they failed to investigate and provide him the evidence.
8.	P4	10 May 2014	Haridas reported on the nomination of Thanapakiam as the beneficiary of the deceased's KWSP funds.
9.	P5	14 May 2014	Haridas complained that he is not satisfied with the investigation officers investigating into the cause of Selvam's death and wants new investigation officers to be appointed.
10.	P6	31 May 2014	Haridas complained against the police for not investigating and taking action against Thanapakiam. He accused the police that he suspect that the police have taken bribes from Thanapakiam. He also threatened to report this matter to Ketua Polis Malaysia and the media.
11.	P13	3 June 2014	Haridas reported against HTJS for failing to treat Selvam and asking to be compensated by HTJS.
12.	P7	4 June 2014	Haridas reported at Balai Polis Kluang, Johor that though he has met Ketua Polis Negeri Sembilan he is not satisfied with the police investigation.
13.	P8	5 June 2014	Haridas reported that he is dissatisfied with the police investigation especially in the recording of his statement.
14.	P14	8 June 2014	Haridas complained that the OCPD Seremban and other officers had either been bribed by Thanapakiam or pressured by HTJS to ignore this case and that he is dissatisfied with the investigation.

15.	P15	20 June 2014	Haridas reported that he has made more than 15 police reports but the police have not taken the necessary action and wants Thanapakiam to be punished and deprived from receiving the deceased monies and property.
16.	P9	3 July 2014	Haridas reported that he suspect that the Ketua Polis Daerah Seremban (OCPD Seremban) and/or ASP Hj Ghoffor has burned his motorcar. He also stated that the offenders in Selvam's case are Thanapakiam, the doctors of HTJS and the police officers. He wants to report this matter to the Ketua Polis Negara and the Prime Minister.
17.	P18	1 December 2014	Haridas reported that he wants to handover some documents to the DPP and that the DPP told him to give it to the investigation officer. He complained of his difficulty with the police. Purpose of this report is to put on record that he has served the documents on the police.
			Police report by Citra
18.	P17	30 August 2014	Citra reported against Dr Ramesh that the medical report prepared by Dr Ramesh is not accurate.
			Police report by Kolanda Vellu
19.	P30	15 May 2014	Kolanda Vellu accused Thanapakiam for causing Selvam's death by obstructing his family from allowing medical treatment for Selvam. The purpose of making this report is to see Thanapakiam be punished and deprived from the monies and properties of Selvam. The same nine reasons in exh. P3 are reproduced why Thanapakiam had caused Selvam's death.

[54] Having perused all the police reports I found that except for exh. P16 which was made on the behest of the police on 13 July 2013 to bring Selvam to HTJS all the other police reports were made after the death of Selvam. As such many of them are an afterthought. I must point out that these police reports were accepted on the insistence of Haridas though they may not be directly relevant to the objectives and terms of reference of this inquest. The police reports show that numerous accusations were made by Haridas in the police reports against the police officers to the extent of alleging that the reason why the police were not conducting investigations and taking criminal action against Thanapakiam is because the police were corrupt and had even burnt his car. I must also point out that though exh. P30 appears to be lodged by Kolanda Vellu but when Kolanda Vellu was pressed for an explanation on how P30 was made Kolanda Vellu admitted that exh. P30 was in fact prepared by Haridas and that Kolanda Vellu only signed it. That explains why exh. P30 appears to be similar to the other reports made by Haridas accusing Thanapakiam of causing Selvam's death.

[55] Very briefly the following reasons or complaints were cited by Haridas, Citra and Kolanda Vellu against Thanapakiam for the cause of Selvam's death:

(a) Haridas's reasons/complaints:

(i) Thanapakiam is the cause of Selvam's death;

(ii) Thanapakiam left her husband to live alone while she lived with her parents for two months after Selvam got sick;

(iii) while living separately from Selvam she discussed with Haridas and Kolanda Vellu that she wanted to divorce Selvam;

(iv) on the same day she telephoned and threatened Haridas that she will not go back to Selvam even though he recovers if he returns without money;

(v) obstructed his family from visiting and treating Selvam;

(vi) lied to the doctor to stop him from treating Selvam;

(vii) lied to his family that Selvam has no mental problem and that he was working when in fact he had a mental problem and no employers wanted him;

(viii) disallowed Citra from visiting and treating Selvam by gossiping that Citra was having an affair;

(ix) hid the fact that Selvam attempted to commit suicide from his family;

(x) making Selvam's life meaningless and killed him before Selvam could succeed in his life;

(xi) making Selvam's death meaningless where she should be punished but instead she is trying to get Selvam's monies and properties;

(xii) Thanapakiam's lawyer had sent a document to administer Selvam's estate to Kolanda Vellu for his signature failing which he has threatened to take civil action against Kolanda Vellu; and

(xiii) changed the beneficiary in Selvam's KWSP funds to Thanapakiam when Selvam was suffering from mental health.

(b) Citra's reasons/complaints:

(i) Thanapakiam and her family are very "money-minded" and had demanded Selvam to buy a house and a car before he can marry Thanapakiam;

(ii) accused Thanapakiam's mother and sister of unreasonable behaviour;

(iii) after Selvam passed away Thanapakiam informed her that Selvam had the intention to commit suicide because he did not want to be a burden to anyone and that he attempted to commit suicide several times but Thanapakiam hid that fact from her family; and

(iv) Thanapakiam intentionally neglected Selvam to get his property. Citra has come to court to seek justice for her brother because Selvam's sickness could have been cured because she too had a similar sickness which is cured.

(c) Kolanda Vellu's reasons/complaints:

(i) not happy to see Thanapakiam always going to the police station with her brother-in-law;

(ii) not satisfied that Thanapakiam had obtained Selvam's signature on the KWSP nomination form;

(iii) not satisfied how Thanapakiam looked after Selvam as she had neglected him.

[56] I have considered each and every reason or complaint given by Haridas, Citra and Kolanda Vellu against Thanapakiam for causing Selvam's death and I found some of the reasons or complaints given to be totally irrelevant and nonsensical for example the reason or complaint given by Kolanda Vellu that "he was not happy to see Thanapakiam always going to the police station with her brother-in-law". This has nothing to do with this inquest and the cause of Selvam's death and in any event there is nothing unlawful for Thanapakiam to go to the police station with whosoever she wants including her brother-in-law.

[57] For convenience I have categorised the relevant reasons advanced by Haridas, Citra and Kolanda Vellu for consideration as follows:

(a) Thanapakiam had divorced and/or separated from Selvam;

(b) Selvam was denied medical and spiritual care and treatment;

(c) Selvam was neglected by Thanapakiam; and

(d) Selvam's monies in particular KWSP funds and properties.

Thanapakiam had divorced and/or separated from Selvam

[58] Haridas alleged that Thanapakiam had divorced Selvam and had thereby caused Selvam's death and is therefore not entitled to the deceased's monies and properties. According to Haridas, Thanapakiam had telephoned Kolanda Vellu and informed him of her intentions to divorce Selvam. Upon being questioned whether Thanapakiam had in fact divorced Selvam, Haridas conceded that they have not divorced officially.

[59] Thanapakiam on the other hand testified that the thought of divorce did not come to her mind at all. She denied calling Kolanda Vellu or any other person to inform them that she wanted to divorce Selvam. She however explained that during Selvam's mental attack and when he became aggressive and wanted Thanapakiam to divorce him she had to appease him. But that does not mean that she had wanted to divorce Selvam.

[60] Haridas also alleged that after Selvam was discharged from HTJS on the 20 May 2013 Thanapakiam had left Selvam to look after himself for about two months and connected this to Selvam's death.

[61] Thanapakiam explained that after Selvam was discharged from HTJS he went to live with Citra whereas she went back to her parents' house. Two weeks later Selvam moved back to his own house and lived with some tenants. A few days later Selvam pleaded with Thanapakiam to come back to him and he then brought Thanapakiam back to his house where they lived together until he died.

[62] I have no reason to disbelieve Thanapakiam. It is obvious that she was adapting herself to Selvam's mood swings and she was giving in to him. Be that as it may, what is crucial is that both Selvam and Thanapakiam were living together for about six to seven months before Selvam hanged himself. This can be seen from the evidence of their neighbours SI-7 and SI-8, Thanapakiam's manager SI-9 and her colleague SI-10 that at times Selvam send's Thanapakiam to work by his motorcar or motorcycle and they can often be seen together.

[63] I am also fully mindful that Selvam's elder brother (SI-4) had testified that Selvam and Thanapakiam's relationship was normal and they had no problems. Accordingly, I cannot accept the allegation that

Thanapakiam's alleged so called unofficial divorce or separation had led to Selvam committing suicide.

Selvam Was Denied Medical And Spiritual Care And Treatment

[64] Haridas, Citra and Kolanda Vellu accused Thanapakiam that she had caused Selvam's death because she did not look after him and provided him with medical and spiritual care and treatment. They also accused Thanapakiam that she had obstructed them from providing medical and spiritual care to Selvam.

Admission To The Psychiatric Ward

[65] On 13 July 2013 Haridas had against the will of Selvam and using the police assistance brought Selvam to HTJS to get him admitted in the psychiatric ward. Dr Ramesh examined Selvam and conducted several examination and found him to be normal and decided not to admit Selvam in the psychiatric ward. Dr Ramesh had consulted the psychiatrist on call Dr Norizam Md Alias before deciding not to admit. Dr Ramesh further fortified his decision not to admit Selvam in the ward when Selvam himself who appeared normal was not willing to be admitted. Both Thanapakiam and Citra also did not want Selvam admitted. The medical report prepared by Dr Ramesh shows that Selvam appeared normal (refer exh. P22).

[66] Citra has on 30 August 2014 made a police report against Dr Ramesh alleging that Dr Ramesh had refused to see Haridas and that she wanted Selvam to be admitted in the ward (refer exh. P17). I do not find Citra to be a truthful, consistent and credible witness for the following reasons:

(a) Citra did not complained or made any police report at the material time that is on the 13 July 2013 or immediately thereafter accusing Dr Ramesh of what she is accusing now;

(b) the complaint against Dr Ramesh is obviously an afterthought since the police report against Dr Ramesh was made only on 30 August 2014. It must be remembered that she is now seeking an interest in Selvam's monies and properties;

(c) Dr Ramesh has no reason whatsoever to lie. He is an independent witness and has no vested interest in this case. He had acted professionally and in arriving at his decision not to admit Selvam he had consulted the psychiatrist on call Dr Norizam Md Alias;

(d) Exhibit P29, namely an email dated 16 July 2013 prepared and sent by Haridas is very telling. It must be pointed out that exh. P29 was prepared almost contemporaneously that is three days after Dr Ramesh's decision. The relevant parts of exh. P29 reads as follows:

> ... But after I admitted my brother in mental hospital, the very same day my sister and my brother's wife met the mental hospital doctors and told that now my brother fine and blame me I'm doing very wrong thing.

A

> Now the **whole family except my father** telling I'm spoiling my brother's life and they ask me after this don't interfere in my brother's problem. (emphasis added)

(e) it must be remembered that it was Citra who had earlier signed the AOR discharge form for Selvam on 20 May 2013 against the advice of
B the medical team (refer exh. P44). Of course she now denies that too. Selvam who had no reason to lie had stated the following in his police report in exh. P34 which reads:

> ... Pihak Hospital Tuanku Jaafar telah memasukkan saya ke Wad 7B klas 3, ketika rawatan dibuat ke atas saya oleh jururawat saya telah
C disuntik beberapa kali dengan ubat yang tidak sesuai dengan saya sehingga menyebabkan kaki dan tangan saya bengkak. Saya juga telah diberi rawatan oleh doktor sakit jiwa. Saya tidak tahan lagi dengan tersebut dan minta dikeluar dari hospital. **Pada 20.5.2013 saya telah minta adik saya nama Chitra untuk mengeluarkan saya dari Hospital**. (emphasis added)

D

(f) Thanapakiam's evidence further lends supports to Selvam's police report that it was Citra who got Selvam discharged on the 20 May 2013. The relevant parts of Thanapakiam's evidence reads:

> ... Doktor telah melarang suami saya keluar dari hospital.
E Berdasarkan desakkan daripada adik suami bernama Chitra saya terpaksa keluarkan Selvam daripada wad. Tetapi doktor tak benarkan keluar.
>
> ...
>
> Selepas keluar wad, lepas Chitra tandatangan Borang keluar wad,
F suami saya tak ingin tinggal bersama saya. Dia tinggal bersama Chitra di rumah Chitra disebabkan Chitra kata, Chitra akan jaga suami saya. Chitra jaga suami saya selama 2 minggu.

[67] I have no reason to disbelieve Dr Ramesh that Selvam appeared to be normal and not aggressive and therefore there was no reason to admit
G him in the psychiatric ward against his will. In any event this incident happened on 13 July 2013 which is months before Selvam came to his death and as such it is too remote to be connected to Selvam's death. I do not see how Thanapakiam or HTJS may be held liable or concerned to have caused or carried out the act or omission that resulted in Selvam's death as
H claimed by Haridas, Citra and Kolanda Vellu.

Seeking Medical And/Or Spiritual Treatment In India

[68] According to Haridas, he had googled and found one Linga Bhairavi Temple for the treatment of patients suffering mental health like Selvam. Haridas then tried to impose his views on Selvam and persisted to bring
I Selvam for treatment to Linga Bhairavi Temple and Isha Ashram in India. Not surprisingly, this was objected to by SI-4. Haridas now accuses

Thanapakiam of causing Selvam's death for not allowing him to bring Selvam to the Linga Bhairavi Temple and Isha Ashram in India for treatment.

[69] Bearing in mind that Haridas neither possess any medical qualifications nor is an expert in spiritual practices and simply relying on an ashram for treatment which he came across by way of a google search obviously raises issues of reliability. Not surprisingly therefore SI-4 did not agree that Selvam be taken to India for such treatment. Selvam himself objected to going to India for such treatment. I am therefore not surprised that by Haridas trying to force Selvam to go to India for treatment had resulted in Selvam telling off Haridas, Citra and Kolanda Vellu not to approach him and to leave him alone (refer exhs. P29, P33 and 34).

[70] On the issue of unreliability of spiritual treatment Dr Sarfraz, an expert psychiatric with vast experience and who rose to head psychiatric department in Negeri Sembilan explained to the court that he has seen many patients going for spiritual help and some spiritual help may cause more harm especially when they cause all sorts of things to drive out the evil spirit. He said the illness is due to deficiency of chemical in the brain.

[71] I have no reason to disagree with SI-4 for not allowing Selvam to be taken to India for treatment. Selvam himself was not willing to go to India. In any event this incident happened on 13 July 2013 which was several months before Selvam came to his death and as such it is too remote to be connected to Selvam's death. According to Dr Ramesh's evidence, when he examined Selvam on the 13 July 2013 Selvam appeared completely normal. I therefore do not agree that by disallowing Selvam to be taken to India Thanapakiam and SI-4 have caused Selvam's death.

Was Selvam Neglected By Thanapakiam?

[72] Haridas, Citra and Kolanda Vellu have accused Thanapakiam of neglecting Selvam which eventually caused Selvam to take his life. They accused Thanapakiam of:

(a) not taking care of Selvam 24 hours a day and 7 days a week;

(b) not providing Selvam with medical and spiritual treatment; and

(c) concealing the fact that Selvam had wanted to commit suicide.

[73] To my mind it is impractical and unreasonable to expect Thanapakiam to look after Selvam 24 hours and 7 days a week for the following reasons:

(a) since Selvam was unable to get a job and be gainfully employed Thanapakiam had to work to earn for their living. SI-4 and SI-5 also corroborated that Thanapakiam had to work to earn for their everyday expenses. They did not have any other source of income or any aid from anyone;

(b) according to Thanapakiam, Selvam was completely normal after the bomoh treatment and that he acted and behaved normally;

(c) Selvam was healthy enough to look after himself and was able to attend to things by himself. He could drive his motorcar and ride his motorcycle around. This was also confirmed by his neighbours SI-7 and SI-8;

(d) Selvam himself had asked Thanapakiam to work and he himself would sent her to her workplace and fetch her; and

(e) Dr Ramesh's explained that on the 13 July 2013 when he examined Selvam, he found Selvam to be in a remission and to be completely normal. Both Dr Sarfraz and Dr Ramesh confirmed that such patients when under remission can lead a normal life and care for themselves. According to Dr Sarfraz once the patient goes into a remission the patient go back to normal behaviour and can lead a normal life. At that time they do not need full care. According to Dr Ramesh the patient is completely functional and he can think and decide for himself. He can look after himself and can even find a job and go on a normal working life.

[74] As to the accusation of not taking Selvam for medical and spiritual treatment I am satisfied that when so necessary Thanapakiam had brought Selvam for medical treatment. In the first instance she is the one who took Selvam to Robinvale Hospital in Melbourne where Selvam was admitted for a few days. This itself had costs her about AUD2,000. He had to be discharged because of financial constraints as she could not afford further medical expenses (refer exh. P38). He was then brought back to Seremban where he was admitted at HTJS for a few days and subsequently Selvam got Citra to get him discharged on an AOR basis. The relevant part of the police report by Selvam (refer exh. P33) reads:

> ... **Pada 20.5.2013 saya telah minta adik saya nama Chitra untuk mengeluarkan saya dari Hospital**. (emphasis added)

[75] Evidence also disclosed that Selvam was taken for spiritual treatment as well. He was taken to temples or kuil for prayers and to a bomoh for traditional treatment. SI-4 confirmed that Selvam was taken to a bomoh twice. After that Selvam appeared normal and went on with his life. In fact evidence disclose that Selvam was in fact looking for a job. This was also confirmed by SI-5. I have no reason to disbelieve SI-4 and SI-5 who I found to be matured and truthful witnesses. I am therefore of the opinion that Thanapakiam had provided the necessary and reasonable care and treatment for Selvam and I disagree that Thanapakiam had neglected Selvam as alleged by Haridas, Citra and Kolanda Vellu.

[76] As regards the accusation that Thanapakiam hid the fact that Selvam had wanted to commit suicide previously the evidence shows to the contrary. The only occasion that Selvam wanted to commit suicide was when he went missing on or around the 8 December 2013. Thanapakiam came home after work and found Selvam missing from her house. She found his wallet and some money on a cupboard. One of the first person she informed that Selvam has gone missing was Citra and SI-4. After a search Selvam was subsequently found by Thanapakiam's brother, G Gunasagaran a/l Givanathan (SI-5) near Seremban Selatan area. He was then sent home. As such, it is certainly not true that Thanapakiam had hid the fact that Selvam had wanted to commit suicide from Selvam's family.

[77] Having heard and considered Thanapakiam's evidence in court I am satisfied that she had not neglected Selvam. She had not only worked in the day time from 8am to 5pm except for Sundays where she is required to work from 8am to 11pm but that after work she comes home and cook the meals for both of them. She had refused to work any extra hours at her workplace simply because she does not want Selvam to be left alone. This was confirmed by her manager SI-9 and her colleague SI-10. Thanapakiam is often seen together with Selvam either on the motorcar or their motorcycle by the neighbours. According to Thanapakiam except for the incident on or around the 8 December 2013 when Selvam went missing they lived a normal life. According to her she had done her best to look after Selvam. Thanapakiam also explained that Selvam led a normal life in that he will attend to all the house work such as sweeping the house, washing dishes, washing clothes, paying water, electricity and telephone bills and watching television in his spare time. The thing that was bothering Selvam was that he was not getting a job. Thanapakiam also testified that she had at no time stopped or obstructed Selvam's family members from visiting Selvam or providing any treatment to Selvam. According to her it was Selvam himself who had chased out and refused to see Haridas and Kolanda Vellu. I therefore do not agree with the accusations that Thanapakiam had neglected Selvam.

Selvam's Monies Including KSWP Funds And Properties

[78] Haridas has accused that Thanapakiam had caused Selvam's death so that she could obtain all of Selvam's monies including Selvam's KWSP funds and his properties. He claims that the KWSP nomination form (exh. P37) nominating Thanapakiam as the sole beneficiary is not genuine. Further Kolanda Vellu testified that he was not satisfied that Thanapakiam had obtained Selvam's signature on the KWSP nomination form.

[79] There is not an iota of evidence to show that it was Thanapakiam who had created or fabricated exh. P37 or obtained Selvam's signature. Thanapakiam testified that she had no idea of the change in the beneficiary

until she received a letter from KWSP notifying of the change. She then asked Selvam about the change and Selvam replied that he had named her as the beneficiary and that it was for her own good. I have no reason to disbelieve Thanapakiam. There is nothing suspicious about the change in the nomination since at that point of time Thanapakiam was the only one living with Selvam and looking after him.

[80] On Haridas's allegation that exh. P37 is not genuine I am fully mindful that Haridas has no personal knowledge on exh. P37 as he is certainly not a witness to exh. P37. In fact he was nowhere nearby when exh. P37 was made. It is obvious therefore that the sole reason why Haridas is challenging exh. P37 is to deprive Thanapakiam of the KWSP monies and connecting Thanapakiam to Selvam's death. Similarly Kolanda Vellu too does not have any personal knowledge in the making of exh. P37 and as such he is only guessing that it was Thanapakiam who had obtained Selvam's signature on the KWSP nomination form. I do not accept Kolanda Vellu's evidence on this issue since there is not an iota of evidence to implicate Thanapakiam with exh. P37.

[81] As for Citra's evidence on exh. P37, I found her to be an inconsistent and an illogical witness. According to Citra she saw Selvam one month before his death when he came out to throw rubbish. One week prior to that Selvam had come to Citra's house and obtained her signature on a form. According to her though she is able to read she did not have the opportunity to read the form but that she did sign on the said form. The following week Selvam told her that the signature was for KWSP form and she just kept quiet. Why did not she inquire and object at that point of time especially since she now claims that Thanapakiam had neglected Selvam? When shown exh. P37 she claims that the witness signature in exh. P37 looks like "hers" but it is not "hers". I do not find her to be a consistent and truthful witness and to my mind her evidence is clearly an afterthought simply to deprive Thanapakiam of the KWSP monies. Towards this end Citra had in fact tried to discredit Thanapakiam as being "money minded" for demanding a house and a car before her marriage to Selvam. When asked what is wrong if Selvam and Thanapakiam can have a house and a car before their marriage she could not give any plausible answer.

[82] The evidence before me does not show the involvement of Thanapakiam in any way for the cause of Selvam's death in order to enrich herself with Selvam's monies and properties. Had Thanapakiam intended to enrich herself with Selvam's monies and properties she would have ensured that all his monies and properties had been transferred onto her name. That is certainly not the case here since the house and vehicles are still under Selvam's name. The evidence before me instead disclose that it was Citra who was a witness in exh. P37 when Selvam nominated Thanapakiam as the sole beneficiary of his KWSP funds.

[83] Be that it may, accusing Thanapakiam that she had caused Selvam's death because she wanted to obtain Selvam's monies including his KWSP funds and his properties without any evidence of her direct or indirect role and involvement is to my mind venturing into the realm of guesswork and conjectures. *PP v. Shanmugan & Ors (supra)* is the leading authority which disallows me to venture into the realm of guessing and conjectures in an inquest. Finally, I do not see anything wrong in Thanapakiam exercising her legal rights to claim the deceased monies including his KWSP funds and his properties.

Family Dispute

[84] It was suggested by the investigating officer, Sergeant Othman (SI-18) that Selvam could have hanged himself due to family disputes mainly between Selvam and Haridas and to some extent between Selvam and Citra and Kolanda Vellu. The following are amongst some causes leading to the family disputes:

(a) Selvam was tied up, beaten and stepped upon until he apologised to Haridas;

(b) Haridas's insistence on getting Selvam admitted in the psychiatric ward of HTJS on the 13 July 2013 was against the will of Selvam himself;

(c) Haridas's insistence of Selvam going to Linga Bhairavi Temple and Isha Ashram in India for treatment;

(d) making negative allegations against Selvam and convincing family members that Selvam is a mentally unsound person;

(e) Haridas stole and sold Selvam's car; and

(f) Haridas cheated Selvam of RM14,000.

[85] On the dispute between Selvam and Haridas, SI-18 relied upon the police report made by Selvam on 31 May 2013 where Selvam reported that Haridas and others had tied and beaten Selvam (refer exh. P33). The relevant parts of exh. P33 reads:

> … *Adik saya telah memukul saya menggunakan tangan dan memijak saya sehingga badan saya lemah, dia juga memaksa saya melutut dan minta maaf dengannya*.
>
> ...
>
> Masalah saya menjadi rumit disebabkan oleh sikap adik saya sering memburuk-burukkan saya dan merosakkan pemikiran keluarga saya sehingga menyebabkan mereka percaya yang saya sakit dan tidak waras lagi. (emphasis added)

[86] On the dispute between Selvam and Haridas regarding Selvam's car and RM14,000, SI-18 relied upon the police report made by Selvam on 31 May 2013 where Selvam reported that Haridas had stolen and sold his car. Haridas had also cheated Selvam of RM14,000 (refer exh. P34). The relevant parts of exh. P34 reads:

> ... Kesalahan yang adik saya lakukan seperti mencuri dan menjual kereta saya tanpa kebenaran saya, mengikat dan memukul saya sehingga saya melutut meminta maaf kepada adik saya. Adik saya selalu memburukkan nama saya kepada kawan-kawan dan ahli keluarga saya, adik saya telah tipu wang saya sebanyak RM14000, adik saya telah menghancurkan kehidupan saya, saya mahu adik saya ditangkap dengan segera.

[87] I had allowed Haridas to be recalled and he explained that the reason he beat Selvam was because Selvam accused his father (Kolanda Vellu) for causing his mother's death and that he had tied Selvam because he was acting aggressively. Haridas has no right whatsoever to beat or abuse Selvam because of the accusations levelled by Selvam against Kolanda Vellu. This incident however shows the dominating or over imposing character of Haridas. Haridas has no right to take the law into his own hands.

[88] Similarly Haridas's evidence shows that he wanted Selvam to be treated and cared according to how he think is right. Haridas explained that he brought Selvam to HTJS to get him admitted in the psychiatric ward and he became very upset with Dr Ramesh for not admitting Selvam. Dr Ramesh after examining Selvam found him to be normal and had no reasons to admit Selvam. Citra and Thanapakiam too did not want him admitted.

[89] Likewise Haridas, insistence and persistence to take Selvam against his will to the Linga Bhairavi Temple and Isha Ashram in India had given rise to a family consternation and resulted in Selvam telling off Haridas, Citra and Kolanda Vellu not to approach him and to leave him alone (refer exhs. P29, P33 and 34).

[90] I must add that though Haridas's intention may be good and in the interest of Selvam but Haridas failed to realise that his persistence and over imposing may have caused Selvam to be distressed and resulted in Selvam in a depressive mood. This could be seen in the police report which was made by Selvam himself (refer exh. P33). I must also add that exhs. P33 and 34 proves that Selvam was normal and knew what was going on when he could make the detailed and coherent police reports. By Haridas trying to dictate terms on Selvam and Thanapakiam there is no doubt that he had caused family disputes and which caused Selvam to be in a depressive mood and have a hatred against Haridas.

[91] I am therefore not surprised when Sergeant Othman formed the opinion that family disputes between Haridas and Selvam could have caused Selvam's death. However I do not agree with Sergeant Othman's opinion

that Haridas had caused Selvam's death due to the family disputes. To my mind these episodes are too remote as they had occurred in May, June and July of 2013 whereas Selvam died on the 13 January 2014.

Conclusion

[92] I have perused all the evidence before me after a detailed fact finding exercise and I am satisfied that the cause of Selvam's death is suicide by hanging and no person or persons are criminally concerned for the cause of his death whether by way of any act or omission. The accusations made by Haridas, Citra and Kolanda Vellu particularly against Thanapakiam for causing Selvam's death appears to be motivated to disqualify her from obtaining the deceased's monies and properties and which have not in any way shown to have caused or accelerated Selvam's death by any unlawful act or omission on the part of Thanapakiam or any other person. Thanapakiam's testimony is very telling:

> Abang suami, Parameswaran tak pernah ugut saya. Tapi Haridas dan Chitra telah ugut saya selepas 16th day prayers. Chitra datang ke rumah saya lebih kurang 10 malam dan panggil saya keluar rumah dan saya tidak dibenar bawa ibu bapa saya bersama saya. Chitra kata harta suami saya mesti dibahagi 5 orang. Jika tidak semua harta suami saya terpaksa diberikan kepada Haridas seorang. Chitra juga kata jika harta tak diberikan 5 orang atau kepada Haridas, Haridas akan bawa tindakan ke Mahkamah.

[93] My verdict accordingly is as follows:

> Death of Selvam a/l Kolanda Vellu was caused by suicide by way of hanging and no person or persons are criminally concerned for the cause of his death whether by way of any act or omission.

[94] Finally I must thank DPP Syamimi Farhana binti Ab Aziz for assisting me in this inquest and who has certainly done a splendid job. The inquest is hereby closed.